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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,771	06/26/2003	Niko Eiden	915-014.002	8092

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EXAMINER

NGUYEN, DUC M

ART UNIT PAPER NUMBER

2618

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/608,771	EIDEN, NIKO	
	Examiner	Art Unit	
	Duc M. Nguyen	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1,4,5,8-12 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 6,7,13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This action is in response to applicant's response filed on 10/12/04. Claims 1, 4-22 are now pending in the present application. **This action is made final.**

#### ***Claim Objections***

1. Claim 20 is objected to because of the following informalities: the ";" in line 3 of the claim should be replaced with ",". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 17-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claims 17, 20, the claims recited the limitation "a member applying a force in a second angular direction opposite to the first angular direction" is not clearly described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In fact, a simple text search for finding "opposite" and "force" in a same paragraph of the specification fails to produce any result. It is suggested that Applicant points out the paragraphs which would comprise the above limitation in the next response. Accordingly, the above limitation would be interpreted and treated as of the same limitation as amended in independent claim 1 (the newly-added limitation regarding a member for forming a force) in the rejection below.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **1, 4-5, 8-12, 15** are rejected under 35 U.S.C. 103(a) as being unpatentable by **Hayes, Jr.** (US Pat. Number **6,002,927**).

Regarding claim **1**, **Hayes** discloses a vibrating portable device, comprising:

- a body (see Figs. 1-3);
- a driving axle as claimed (see Figs. 1-3);
- a weight unit with mass center and radius as claimed (see Figs. 1-3 and col. 4, lines 63-67);
- an electrical motor (rotor 22) as claimed (see col. 6, lines 43-67);

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- the electric motor is adapted to adjust the angular disposition of the at least two weight in a first angular direction (see Fig. 2);
- a member (tab 104) for forming a force (by applying rotation force B, in the opposite direction of rotation force A, as shown in Fig. 3 of Hayes, the tab 104 would form an angular torsion force when rotated) that tries to change the angular disposition of the weight elements with respect to each other (the two weight elements would have opposite angular positions as shown in Fig. 3 of Hayes) to a second angular direction opposite the first angular direction (the rotation force B is opposite to the rotation force A in angular direction, see Figs. 2-3).

Here, although Hayes is silent with the offset  $r$  which is maintained on a desired level within a predetermined range, one skilled in the art would recognize that such offset  $r$  would obviously be designed to be maintained within a predetermined range by engineers in order to produce amplitudes of vibrations that would be best suitable to users/customers perception (i.e, not too much or too little). Therefore, the claimed limitation regarding the offset  $r$  maintained within a predetermined range is made obvious by Hayes.

Regarding claims **4-5, 9**, the claims are rejected for the same reason as set forth in claim 1 above. In addition, Hayes discloses two weigh elements as claimed (see Figs. 2-3 and col. 6, line 43 – col. 7, line 23).

Regarding claims **10-11**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, it is clear that Hayes would disclose the weigh elements are adjusted as claimed, in order to change the offset  $r$  ( $R1$ ,  $R2$ ) as shown in Figures 2-3.

Regarding claim **8**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, Hayes discloses the motor is adapted to adjust the product (i.e, the amplitude) down to zero (see col. 7, lines 3-6).

Regarding claim **12**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, with the broadest reasonable interpretation, the tab 104 would read on the resilient member 51 as claimed because they are both being used to form a force to change the angular disposition of the weight elements (see Figs. 2-3 and col. 7, lines 7-23).

Regarding claim **15**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, it is clear that Hayes would disclose the motor is adapted to adjust the product (i.e, the amplitude) responsive to at least one electrical signal as claimed (see col. 5, lines 53 – 65).

6. Claims **16-20** are rejected under 35 U.S.C. 103(a) as being unpatentable by **Hayes, Jr.** in view of **Uriya (US 6,574,489)**.

Regarding claim **16**, **Hayes** fails to disclose selecting an electrical signal from a group consist of : a ringing tone signal, an alarm signal, a notification signal, or a messaging signal. However, **Uriya** discloses a method for vibrating a portable device with different amplitudes, patterns or frequencies (rpm) of vibrations based on the

communication mode from the receiving message (see Fig. 10 and col. 2, lines 62-65). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to further incorporating Uriya's teaching to Hayes for providing vibrations in accordance with the communication mode extracted from the incoming message, so that the user would know in advance the type of a receiving message without the need of looking at the phone. By doing so, Hayes in view of Uriya would disclose selecting an electrical signal from a notification signal or message signal as claimed, in order to generate different amplitudes, patterns or frequencies (rpm) of vibrations in accordance with a receive mode (see **Uriya** Fig. 10 and col. 2, lines 62-65).

Regarding claims **17-19**, the claims are rejected for the same reason as set forth in claim 16 above. In addition, **Uriya** discloses the adjusting and a triggering event selected from a notification signal or message signal as claimed, in order to generate different amplitudes, patterns or frequencies (rpm) of vibrations in accordance with a receive mode (see **Uriya** Fig. 10 and col. 2, lines 62-65).

Regarding claim **20**, it is rejected for the same reason as set forth in claim 16 above. In addition, the receipt of an incoming call would read on receiving a message.

#### ***Allowable Subject Matter***

7. Claims 6, 7, 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 21-22 are allowed.

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9. The following is a statement of reasons for the indication of allowable subject matter:

As to claims 6, 14, 21-22, the cited prior art fails to disclose or make it obvious a method for vibrating a portable electronic device which comprises components as specified in the claims, wherein a non-obvious feature comprises two electrical motors in combination with two weight elements for realizing two different angular dispositions with steps as recited in the claims.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1, 17, 20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

11. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300 (for **formal** communications intended for entry)

(571)-273-7893 (for informal or **draft** communications).

Hand-delivered responses should be brought to Customer Service Window,  
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.



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Any inquiry concerning this communication or communications from the examiner should be directed to Duc M. Nguyen whose telephone number is (571) 272-7893, Monday-Thursday (9:00 AM - 5:00 PM).

Or to Matthew Anderson (Supervisor) whose telephone number is (571) 272-4177.

Duc M. Nguyen

Apr 8, 2006

A handwritten signature in black ink, appearing to read 'Duc M. Nguyen', with a long horizontal flourish extending to the right.